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13 PNC BANK, NATIONAL ASSOCIATION

14
15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA

17 PNC BANK, NATIONAL ASSOCIATION, a
18 National Banking Association,

19 Plaintiff,
20 v.

21 MAO AND ZHANG LV LLC; DOES 1 through
22 10, inclusive; ROES Business Entities 1 through
23 10, inclusive; and all others who claim interest in
24 the subject property located at 210 E. Flamingo
25 Road, #417, Las Vegas, NV 89169,

26 Defendants.

27 MAO AND ZHANG LV LLC,

28 Counterclaimant,

v.

RODICA SCHILERU; PNC BANK,
NATIONAL ASSOCIATION; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 10, inclusive,

Counter-Defendants.

CASE NO.: 2:15-cv-01164-KJD-VCF

STIPULATION AND ORDER
TO STAY CASE

1 MAO AND ZHANG LV LLC,

2 Third Party Plaintiff,

3 v.

4 RODICA SCHILERU; MORTGAGE
5 ELECTRONIC REGISTRATION
6 SYSTEMS, INC.; DOES 1 through 10,
inclusive; and ROE CORPORATIONS 1
through 10, inclusive,

7 Third-Party Defendants.

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STIPULATION AND ORDER TO STAY CASE

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10 Plaintiff/Counter-defendant PNC Bank, NA, and Defendant/Counterclaimant Mao and
11 Zhang, LLC, (the only parties having been served and appearing in the case; collectively the
12 "Parties") by and through their respective counsel of record, hereby stipulate as follows:

- 13 1. This lawsuit is one of hundreds where the parties dispute the effect of a non-judicial
foreclosure sale held by an HOA pursuant to NRS 116.3116 et seq. (the "Statute") for an
owner's failure to pay HOA assessments.
- 14 2. On August 12, 2016, the Ninth Circuit issued a decision in *Bourne Valley Court Trust v.*
Wells Fargo Bank, NA., No. 15-15233, slip op. (9th Cir. August 12, 2016), holding that NRS
116.3116 et seq. is facially unconstitutional under the due process clause of the Fourteenth
Amendment to the United States Constitution.
- 15 3. The Parties dispute the impact that *Bourne Valley* has on the claims in this lawsuit.
- 16 4. Counsel for the petitioner in *Bourne Valley* filed a petition for re-hearing on August 26,
2016, and in connection therewith, requested that the Ninth Circuit stay publication of the
opinion.
- 17 5. The Nevada Supreme Court heard oral argument on September 8, 2016, in *Saticoy Bay LLC*
Series 350 Durango 104 v. Wells Fargo Home Mortgage, Nevada Supreme Court case
68630, Nevada District Court case A-13-688410-C. This case addresses the same issues as
Bourne Valley.
- 18 6. On information and belief, the Nevada Supreme Court will expedite issuing an opinion in in



1 in *Saticoy Bay LLC Series 350 Durango 104* that will construe NRS 116.3116 et seq. and
2 eliminate substantial uncertainty that currently exists in this area of the law.

3 7. Staying this case pending the Nevada Supreme Court and Ninth Circuit's opinion will avoid
4 premature arguments or briefing on the *Bourne Valley* decision and will enable the Parties to
5 present argument and evidence to this Court with complete legal authority, thereby
6 promoting the most efficient use of the Court's and the Parties' limited resources.

7 8. Because the oral argument in *Saticoy Bay LLC Series 350 Durango 104* is imminent and the
8 Nevada Supreme Court is certainly aware of the hundreds of lawsuits that will be affected, if not
9 resolved, by the Nevada Supreme Court's decision, the stay is not indefinite.

10 9. Accordingly, the parties request that all proceedings in this lawsuit are stayed, and all
11 upcoming deadlines, hearings, and conferences be vacated.

12 10. The parties agree that Mao and Zhang LLC will maintain the property at issue in its current
13 condition and will abide by all obligations and responsibilities arising from Defendant
14 Mao and Zhang LLC's alleged ownership interest in the property, including but not
15 limited to the payment of all applicable fees, assessments, taxes, and other financial
16 obligations.

17 11. The Parties agree that PNC will not pursue foreclosure against the property at issue during
18 the stay.

19 12. The Parties agree that Defendant Mao and Zhang LLC will not sell, transfer, or convey the
20 property while this case is stayed.

21 13. This stay will expire after the Ninth Circuit issues a mandate in *Bourne Valley* and the
22 Nevada Supreme Court issues an opinion in *Saticoy Bay LLC Series 350 Durango 104*.

23 14. Within fifteen (15) days after the mandate is issued, the parties shall file a notice
24 informing the Court that the stay has expired and requesting that the Court set a status
25 hearing.

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15. If the Court desires, the parties request that the Court set a status check for approximately 90 days from the date of entry of this Stipulation and Order.

Dated: September 9, 2016

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WOLFE & WYMAN, LLP

THE LAW OFFICES OF MIKE BEEDE,
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By:/s/ *Gregory S. Bean*

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ORDER

IT IS SO ORDERED:

DATED: September 9, 2016

Carl Gaddis

UNITED STATES MAGISTRATE JUDGE

IT IS HEREBY ORDERED that a status hearing is scheduled for December 16, 2016 at 10:00 a.m., in courtroom 3D.